



## DEPARTMENT OF LABOR

### Office of Labor-Management Standards

#### Agency Information Collection Activities; Comment Request; Federal Transit Act

#### Urban Program Transit Worker Protections

**ACTION:** Notice; request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (PRA), the DOL is soliciting public comments regarding the extension of this Office of Labor-Management Standards (OLMS)-sponsored information collection for the authority to continue the information collection request (ICR) titled, “Protections for Transit Workers under Section 5333(b) Urban Program,” currently approved under OMB Control Number 1245-0006.

**DATES:** Consideration will be given to all written comments received by **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Karen Torre, Chief of the Division of Interpretations and Regulations, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-5609, Washington, DC 20210, [olms-public@dol.gov](mailto:olms-public@dol.gov), (202) 693-0123 (this is not a toll-free number), (800) 877-8339 (TTY/TDD).

Electronic submission: You may submit comments and attachments electronically at [olms-public@dol.gov](mailto:olms-public@dol.gov), identified by OMB Control Number 1245-0006.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the

information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for the Office of Management and Budget (OMB) approval of the information collection request; they will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Karen Torre by telephone at 202-693-0123, or by email at [olms-public@dol.gov](mailto:olms-public@dol.gov).

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. 5333(b), when Federal funds are used to acquire, improve, or operate a transit system, the Department must ensure that the recipient of those funds establishes arrangements to protect the rights of affected transit employees. Federal law requires such arrangements to be "fair and equitable," and the Department of Labor (DOL or "the Department") must certify the arrangements before the U.S. Department of Transportation's Federal Transit Administration (FTA) can award certain funds to grantees. These employee protective arrangements must include provisions that may be necessary for the preservation of rights, privileges, and benefits under existing collective bargaining agreements or otherwise; the continuation of collective bargaining rights; the protection of individual employees against a worsening of their positions related to employment; assurances of employment to employees of acquired transportation systems; assurances of priority of reemployment of employees whose employment is ended or who are laid off; and paid training or retraining programs.

49 U.S.C. 5333(b)(2). Pursuant to 29 CFR part 215, upon receipt of copies of

applications for Federal assistance subject to 49 U.S.C. 5333(b) from the FTA, together with a request for the certification of employee protective arrangements from the Department of Labor, DOL will process those applications. The FTA will provide the Department with the information necessary to enable the Department to process employee protections for certification of the project.

DOL Procedural Guidelines (29 CFR part 215), encourage the development of employee protections through local negotiations, but establish time frames for certification to expedite the process and make it more predictable, while assuring that the required protections are in place.

Pursuant to the Guidelines, DOL refers for review the grant application and the proposed terms and conditions to unions representing transit employees in the service area of the project and to the applicant and/or sub-recipient. No referral is made if the application falls under one of the following exceptions: 1) employees in the service area are not represented by a union; 2) the grant is for routine replacement items; 3) the grant is for a Job Access project serving populations less than 200,000. (29 CFR 215.3).

Grants where employees in the service area are not represented by a union will be certified without referral based on protective terms and conditions set forth by DOL.

When a grant application is referred to the parties, DOL recommends the terms and conditions to serve as the basis for certification. The parties have 15 days to inform DOL of any objections to the recommended terms including reasons for such objections. If no objections are registered and no circumstances exist inconsistent with the statute, or if objections are found not sufficient, DOL certifies the project on the basis of the recommended terms.

If DOL determines that the objections are sufficient, the Department, as appropriate, will direct the parties to negotiate for up to 30 days, limited to issues defined by DOL.

If the parties are unable to reach agreement within 30 days, DOL will review the final proposals and where no circumstances exist inconsistent with the statute, issue an interim certification permitting FTA to release funds, provided that no action is taken relating to the issues in dispute that would irreparably harm employees.

Following the interim certification, the parties may continue negotiations. If they are unable to reach agreement, DOL sets the terms for Final Certification within 60 days. DOL may request briefs on the issues in dispute before issuing the final certification.

Notwithstanding the above, the Department retains the right to withhold certification where circumstances inconsistent with the statute so warrant until such circumstances have been resolved.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL-OLMS.

*Type of Review:* Extension.

*Title of Collection:* Protections for Transit Workers under Section 5333(b) Urban Program.

*OMB Control Number:* 1245-0006.

*Form:* N/A.

*Affected Public:* State, Local, and Tribal Governments; Labor Organizations; Transit Workers.

*Total Estimated Number of Respondents:* 1,500.

*Frequency:* Varies.

*Total Estimated Number of Responses:* 1,500.

*Estimated Average Time per Response:* 4 hours.

*Total Estimated Annual Time Burden:* 6,000 hours.

*Total Estimated Annual Other Costs Burden:* \$0.

(Authority: 44 U.S.C. 3506(c)(2)(A)).

**Karen Torre,**

*Chief of the Division of Interpretations and Regulations,*

*Office of Labor-Management Standards,*

*U.S. Department of Labor.*

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